

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,	
	Plaintiff,
vs.	
GILBERT DIAZ,	
	Defendant.

CASE NO. 12cv0474/10cr1460

**ORDER DENYING
DEFENDANT’S MOTION FOR A
CERTIFICATE OF
APPEALABILITY**

On November 27, 2012, this Court entered an order denying Defendant’s motion pursuant to 28 U.S.C. § 2255. On December 10, 2012, Defendant filed a Notice of Appeal, which the Court construes as a request for a certificate of appealability.

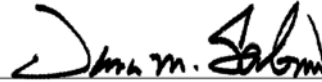
A certificate of appealability is authorized “if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). *See also Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Having reviewed the motion and the order thereon, the Court

///
///
///

1 finds Defendant has failed to demonstrate that reasonable jurists would find this Court's denial of his
2 motion debatable. Therefore, the Court denies Defendant's request for a certificate of appealability.

3 **IT IS SO ORDERED.**

4 DATED: December 14, 2012



5
6 HON. DANA M. SABRAW
7 United States District Judge
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28